

REMARKS

In the Office Action mailed October 5, 2005, pending claims 1 and 3-16 were rejected as obvious over U.S. Patents to *Hernandez*, *Granja* and *Friedman*.

A Telephone Interview with the Examiner took place on January 6, 2006, which is further summarized below. Consistent with the Telephone Interview, claims 1, 3-7 and 13-16 are cancelled and claims 8-10 are amended herein. Claims 8-12 remain pending.

Reconsideration of claims 8-12 in light of the amendments and the following remarks is respectfully requested.

A. Amended Independent Claim 8 and Dependent Claims 9-12 Are Patentably Distinguishable *Hernandez* and *Granja* Together with *Friedman*.

The rejection of claims 8-12 under 35 U.S.C. § 103(a) over *Hernandez* (U.S. Patent No. 6,235,795) in view of *Granja* (U.S. Patent No. 6,235,795) and *Friedman* (U.S. Patent No. 6,423,6971) is respectfully traversed.

Prior to amendment, independent claim 8 recited a composition having a specific profile of aliphatic alcohols limited by a method of manufacturing in which the starting materials containing primary aliphatic alcohols are ground into particles, subjecting the particles to liquid extraction with a liquid organic extractant in which the alcohols are soluble, and recovering the alcohol mixture having the specific compositional profile from the extractant. Claim 8 has now been amended to a method of manufacture form.

As was discussed in the telephone interview, the yield obtained with the technique of claim 8 (for example, 40% at paragraph 45) is more than that reported by *Hernandez* and *Granja* (examples calculated at 25%, 39%, 29%, 19%, 29%, 20%, 27%, 14%, 19%, 17% and 29%). The increase is believed attributable the substantial decrease in particulate size, in addition to the benefits of saponification.

The step of grinding the starting materials into particles is neither taught nor suggested by *Hernandez* nor *Granja*. This is especially important given the materiality of these references which arguably reflect the practices of those of skill in the art. By failing to mention the particulate-producing grinding step of the present invention, it is fair to conclude that any benefits obtained from this step are not appreciated by *Hernandez* and *Granja*. Thus, the observation in the Office Action that such grinding is an obvious engineering practice is without support in the

references and is insufficient in the present case, given the unexpected increase in yield over *Hernandez* nor *Granja*.

While *Friedman* does teach micronization in the context of a medication which is micronized and mixed with an adhesive so that the medication can be applied and stick to mucus membranes in the mouth, *Friedman* must be characterized as non-analogous art relative to the particulate-producing grinding step of amended claim 8. Micronization is needed in *Friedman* to obtain adequate contact to permit absorption of the medication through the mucus membranes of the patient in a short treatment time. In the present case, grinding to produce particles is not for the purpose of absorption of a medication in a surface treatment context, but rather for increased yield. Thus, *Friedman*'s field of use is different, as is the problem to be solved.

For the reasons given above, amended claim 8 is patentably distinguishable over the references of record, as are dependent claims 9-12, which depend from amended claim 8. Withdrawal of the rejections of claims 8-12 is thus proper and respectfully requested.

B. Examiner Interview Summary.

The amendment of claim 8 was discussed in the Examiner Telephone Interview of Friday, January 6, 2006. While agreement was not reached as to the allowability of amended claim 8, consideration of claim 8 in a method claim form was agreed to by the Examiner, and cancellation of claims 1, 3-7 and 13-16 was agreed to by the undersigned. Improved results obtained with the method of the present invention and comparisons between the claimed invention and the references were discussed. The undersigned thanks the Examiner for his consideration and patience in discussing the present application in such detail.


C. Petition for 1-Month Extension.

Applicant hereby petitions for a 1-Month Extension, extending the due date for filing this Amendment and Response from January 5, 2006 to February 5, 2006. Please charge the 1-month large entity extension fee and any additional fee associated with this filing to Deposit Account No. 50-1123.

The Examiner is asked to kindly contact the undersigned by telephone should any outstanding issues remain.

Respectfully submitted,

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